

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR
Civ. No. B 038975
(Super. Ct. No. C420153)

CHURCH OF SCIENTOLOGY OF CALIFORNIA
and MARY SUE HUBBARD,

Plaintiff-Petitioners,

-against-

GERALD ARMSTRONG,

Defendant.

CHURCH OF SCIENTOLOGY OF CALIFORNIA
and MARY SUE HUBBARD,

Petitioners,

-against-

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES,

Respondents.

BENT CORYDON, Real Party in Interest

Petition From Superior Court of California
County of Los Angeles
Judge Bruce R. Geernaert

EMERGENCY MOTION FOR PARTIAL RECONSIDERATION OF TEMPORARY STAY
ORDER, AND FOR CLARIFICATION

STAY REQUESTED

ERIC M. LIEBERMAN
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KRINSKY & LIEBERMAN, P.C.
740 Broadway at Astor Place
Fifth Floor
New York, New York 10003
(212) 254-1111

BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, CA 90028
(213) 661-4030

Counsel for Plaintiff-Petitioners

TO THE JUSTICES OF THE COURT OF APPEAL, DIVISION FOUR:

Petitioners request reconsideration of that part of this Court's temporary stay order, issued on December 22, 1988, which permits Bent Corydon and his counsel access to the trial court case file once the trial court's stay expires on December 30, 1988. This request is based on a new matter which demonstrates conclusively that Corydon's application to unseal the court case file was not taken in good faith, but is rather an attempt to use access to such file as leverage in making unreasonable and extortionate demands for money from petitioners.

The facts that led to this request have developed since issuance of the order. Petitioners believed that the Court's order implicitly required Corydon and his counsel to maintain the confidentiality of the file, pending further order of the Court. On December 23, 1988, petitioners sought agreement from respondent Corydon's counsel, Federico Sayre and Toby Plevin, to a protective order which would assure that they not publicly disseminate the file. They flatly refused to enter into any such agreement. Indeed, Corydon's counsel sought to exploit the perceived uncertainty in this Court's order by offering to abandon their attempt to obtain or disseminate the contents of the file upon the mere payment by petitioner of the nominal sum of three million dollars! (See Declaration of William Drescher, and Exhibit thereto.) Corydon's proposal included an offer to dismiss Corydon's counterclaims in a case in Riverside County entitled Church of Scientology of Riverside, et al. v. Bent Corydon et al., No. 154129. Those counterclaims, however, are subject to dismissal under the five year rule as of

December 30, 1988, and Corydon already has moved to dismiss them (see Drescher declaration). Corydon did not offer, however, to dismiss his other lawsuits against Scientology churches or officers. Yet Corydon had sought access to the Armstrong case file for use in those very other cases. Thus, Corydon's offer to give up access to the documents at issue and to "dismiss" a case he has already moved to dismiss in exchange for three million dollars is tantamount to an admission that the Armstrong file at issue in this proceeding is not relevant to any legitimate claim on the part of Corydon. In truth, Corydon's "offer" to "settle" a stale case which is about to be dismissed in any event was merely a ruse to cloak an extortionate demand for money in exchange for silence.

Thereafter, on December 27, 1988, Corydon's counsel amended their demand. Toby Plevin stated to the undersigned counsel that she would agree to "limit" her dissemination of the contents of the trial court file to other parties and their counsel in litigation against various Churches of Scientology, thereby arrogating to herself the determination as to the relevance of the file to such other litigation and providing a vehicle to circumvent this Court's limitation on access by the general public to material from the file. Clearly, the Court's imposition of a temporary stay with respect to inspection of the file by the general public manifests a concern that access to the file be limited, at least until the petition and/or the appeal is finally decided. This Court's intention will be thwarted should Corydon be allowed even the limited access to the file contemplated by this Court.

The attempts by Corydon's counsel to exploit the Court orders granting them access to the file, demonstrate the bad faith nature of Corydon's request for access. In offering not to obtain documents from the file in the Armstrong case in return for the payment of an extortionate amount of money, Corydon's counsel demonstrates that he has absolutely no legitimate need for the documents in the cases that will be ongoing. As we have urged in the petition for writ of supersedeas, access to the file serves no legitimate purpose and is in no way relevant to any legitimate concern of Corydon.

Thus, petitioners request that the Court reconsider its order, expanding the original temporary stay so as to stay the lower court's order in its entirety, pending final determination of the petition and appeal. Alternatively, at the least, the Court should clarify its temporary stay order so as to (i) prohibit Corydon or his counsel from disseminating copies of the file, or information concerning its contents, to others pending further order of the Court; and, (ii) direct, pending further order of the Court, that in the event Corydon, or his counsel, file copies of documents from the file, or information concerning its contents, in this or any other litigation, such filing shall be made under seal. A similar order regarding filing under seal was directed by Superior Court Judge Paul G. Breckenridge, Jr. in this case on February 25, 1985 (see

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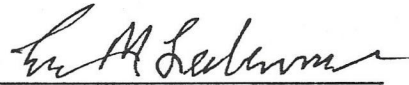
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Judge Breckenridge's order, attached as Exhibit 2).

Dated: December 28, 1988

Respectfully submitted,
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 Broadway
New York, New York 10003

By: 
Eric M. Lieberman

BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, CA 90028

By: 
Timothy Bowles
Attorneys for Appellants and
Petitioners

DECLARATION OF WILLIAM T. DRESCHER

I, WILLIAM T. DRESCHER, declare and say:

1. I am a member of the Bar of the State of California and a partner of Wyman, Bautzer, Kuchel & Silbert, counsel of record for various parties in an action pending in the Superior Court of the State of California for the County of Riverside denominated Church of Scientology Mission of Riverside, et al. v. Corydon, et al., and assigned Case Number 154129 (the "Riverside Action"). I make this declaration on my personal knowledge, and if called upon as a witness, I could and would testify competently to the following facts.

2. On the morning of December 23, 1988, I received a telephone call from Federico C. Sayre, counsel of record for Bent Corydon ("Corydon") in both the instant proceeding and in the Riverside action. In that telephone call, Mr. Sayre informed me of this Court's December 22, 1988 Order (of which I was unaware) and proposed to me that the Corydon litigation could be settled with an agreement that Corydon and his counsel would refrain from obtaining the documents at issue herein, or if obtained, not to disseminate them, in exchange for a payment of \$3,000,000 to Corydon. Mr. Sayre said that he would memorialize the substance of that telephone call in a letter.

3. I was confident that my clients would have no interest in such a proposal, so I did not probe for details. It was, however, unclear to me what Corydon litigation Mr. Sayre had in mind inasmuch as my clients and Corydon are engaged in litigation in the Riverside action, an action pending in the

District of Columbia, coordinated defamation proceedings in Los Angeles County, and in a separate action in Los Angeles Superior Court, denominated Corydon v. Church of Scientology International, Inc., et al., and assigned Case Number C694401.

4. I contacted my clients immediately after receiving Mr. Sayre's December 23rd call, and was instructed to reject any such proposal out of hand irrespective of the details. I communicated that rejection to Mr. Sayre by telephone that same day.

5. Late in the afternoon of December 23, 1988, I received by messenger from Mr. Sayre a letter, a true and correct copy of which is annexed hereto as Exhibit 1. In that letter, Mr. Sayre identified the case that was the subject of his proposal as the Riverside action, and only that case. Mr. Sayre's office has already filed a motion to dismiss the Riverside action (including his client's cross-claims) under the so-called five-year rule, C.C.P. §§ 583.310, 583.360, and the hearing on that motion is calendared for January 5, 1988.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration is executed at Los Angeles, California on December 27, 1988.



William T. Drescher

LAW OFFICES
SAYRE, MORENO, PURCELL & BOUCHER
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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December 23, 1988

William Drescher
Wyman, Bautzer, Kuchel & Silbert
2049 Century Park East
14th Floor
Los Angeles, California 90067

Re: Church of Scientology, et. al. v. Bent Corydon, et al.

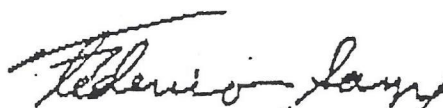
Dear Bill:

This will memorialize our conversation of December 23, 1988. Please be advised that my client is willing to settle the case of the Church of Scientology, et al., vs. Bent Corydon, et al., for \$3,000,000.00. This settlement will include our refraining from exercising our right to obtain the "Armstrong documents", or if we have obtained these documents prior to your client responding to this demand, we will agree to return the documents to your client and refrain from showing them to anyone else.

This demand will remain open until close of business December 30, 1988. At that point, if not accepted, this demand will be revoked and will not again be reinstituted at this level.

Very truly yours,

SAYRE, MORENO, PURCELL & BOUCHER


FEDERICO C. SAYRE

FCS: MV
8-C Drescher.Sci

FEB 28 1985

ORIGINAL FILED

FEB 25 1985

COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

11	CHURCH OF SCIENTOLOGY OF CALIFORNIA,)	No. C 420153
12)	
13	Plaintiff,)	ORDER
14	v.)	
15	GERALD ARMSTRONG,)	
16)	
17	Defendant.)	
18	_____)	
19	MARY SUE HUBBARD,)	
20)	
21	Intervenor.)	
22	_____)	

19 This matter came on for hearing in Department 57 of the
20 California Superior Court for the County of Los Angeles on
21 February 11, 1985, upon the motion of the United States for an
22 order permitting it to inspect and copy certain exhibits, filed
23 under seal in this action. Upon consideration of the arguments
24 of the plaintiff, intervenor, and the United States, it is this
25 25th day of February, 1985, hereby

26 ORDERED that the following exhibits shall be made available
27 to the United States for inspection and copying for the reasons

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1 given at the February 11, 1985, hearing and subject to the
2 conditions set forth below:

3 Exhibit No. (500 Ser.)

4 QQQQ

5 KKKKK

6 LLLLL

7 OOOOO

8 PPPPP

9 QQQQQ

10 The United States must inspect and copy the foregoing exhibits
11 according to the following conditions:

12 1. The Clerk will permit the United States, through the
13 United States Department of Justice, its designated governmental
14 representative, or personnel retained by the Department of
15 Justice to assist in processing the exhibits for the defense of
16 the Washington, D.C. action, to inspect and copy the foregoing
17 exhibits;

18 2. The United States may use the foregoing exhibits solely
19 for the purpose of preparing the defense of, and defending the
20 action Founding Church of Scientology of Washington, D.C., Inc.,
21 et al. v. Director, Federal Bureau of Investigation, et al.,
22 Civil Action No. 78-0107 (D.D.C.) (the "Washington, D.C.
23 Action");

24 3. The foregoing exhibits or copies thereof shall not be
25 disclosed to the public without prior court approval, provided,
26 however, that:

27 (a) The United States may offer these exhibits as
28 sealed exhibits in the course of litigation and the exhibits may

1 be used as sealed exhibits at depositions (and shown to
2 deponents), filed under seal as attachments to pleadings, and be
3 used at trial, in the Washington, D.C. Action;

4 (b) The United States may disclose these exhibits to
5 personnel retained by it to assist in processing the exhibits for
6 the defense of the Washington, D.C. Action, who shall be and *ARE (P.C.S.)*
7 subject to the terms of this order; and,

8 (c) The United States District Court in the
9 Washington, D.C. Action may make such further orders regarding
10 these exhibits as appropriate including, in particular, an order
11 unsealing these exhibits.

12 It is hereby

13 FURTHER ORDERED that the motion of the United States to
14 inspect and copy sealed exhibits (500 Series) DDD, EEEE, FFFF,
15 GGGG, HHHH, IIII, CCCCC, GGGGG, IIIII, BBBBBB, and OOOOOO is
16 DENIED for the reasons given at the February 11, 1985, hearing.

17 It is hereby

18 FURTHER ORDERED that, pursuant to the stipulation of the
19 United States, the copies of the Declaration of Laurel Sullivan
20 (dated August 20, 1984), the Declaration of Gerald Armstrong
21 (dated September 6, 1984), and the Declaration of Gerald
22 Armstrong (dated December 31, 1984), which were filed with this
23 Court by the United States shall be kept under seal by the Clerk
24 and shall not be available to the public except upon further

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27 ///

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1 order of this court. This order does not affect other copies of
2 these declarations or other declarations by these individuals.

3 Dated: FEB. 25, 1985
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6 PAUL G. BRECKENRIDGE, JR.
7 Judge of the Superior Court
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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

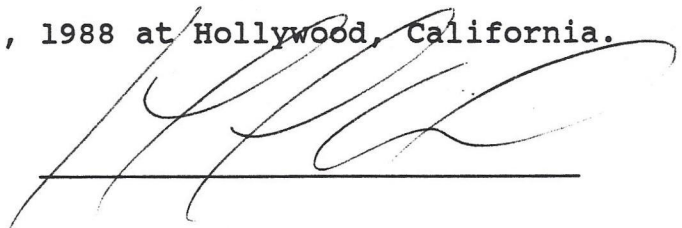
I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On December 28, 1988, I caused to be served the foregoing document described as REQUEST FOR CLARIFICATION AND MODIFICATION OF TEMPORARY STAY ORDER on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

SEE ATTACHED LIST.

If hand service is indicated on the attached list, I caused this to be served by hand, otherwise I caused such envelopes with postage thereon fully prepaid to be placed in the United States mail at Hollywood, California.

Executed on December 28, 1988 at Hollywood, California.

A handwritten signature in black ink, appearing to be "J. P. [unclear]", is written over a horizontal line. The signature is fluid and cursive.

SERVICE LIST

Toby Plevin **HAND DELIVERED**
SAYRE, MORENO, PURCELL & BOUCHER
10866 Wilshire Boulevard
Fourth Floor
Los Angeles, CA 90024

Paul Morantz
Attorney at Law
P.O. Box 511
Pacific Palisades, CA 90272

Clerk of Superior Court **HAND DELIVERED**
111 North Hill Street
Los Angeles, CA 90012

Michael Flynn
400 Atlantic Avenue
Boston, Massachusetts